IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1396 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

==========

RAJKOT MARKETING PVT.LTD.

Versus

ALPA MARKETING ENTERPRISE

Appearance:

1. Civil Revision Application No. 1396 of 1999

MR MAHENDRA K PATEL for Petitioner No. 1

MR MB GANDHI for Respondent No. 1

CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 06/05/2002

ORAL JUDGEMENT

Rule. Mr. Gandhi, learned advocate for the respondent waives service of Rule on behalf of the respondent. By consent, Rule is fixed forthwith. Heard Mr. Patel, learned advocate for the petitioner original defendant and Mr. Gandhi for the respondent original plaintiff. During the hearing, I was taken through the order under challenge passed by learned Chamber Judge,

City Civil Court, Ahmedabad below Ex. 23 dated 15.7.1999 in Summary Suit No. 4845 of 1997, wherein, the learned Chamber Judge has granted the conditional leave to defend the summary suit on condition that the defendant has to deposit a sum of Rs.50,000/- within 8 weeks. It is the contention of Mr. Patel that learned Chamber Judge ought not to have imposed such condition of deposit as according to the case put forward by the petitioner, learned trial Judge was required to grant unconditional leave.

2. Mr. Gandhi, learned advocate for the respondent has supported the order and it is his submission that this is not a matter, wherein this court is required to interfere while exercising revisional powers under Section 115 of the C.P.C..

3. This court has while issuing notice on 13.10.1999 has directed the petitioner to deposit a sum of Rs.20,000/- before the trial Court and on that condition, the stay of the order was granted. It is the contention of Mr. Patel that the petitioner has deposited Rs.20,000/- before the trial Court as per the order of this court. Mr. Patel has also submitted that as the petitioner has paid Rs.20,000/-, the order of learned Chamber Judge is required to be modified.

4. Considering the submissions made before me and as found from the order under challenge, this Court is of the view that conditional leave granted by directing the petitioner to deposit Rs.50,000/- is required to be modified and instead of Rs.50,000/-, the petitioner is directed to deposit Rs.35,000/- before the Trial Court and as per the earlier order of this Court, the petitioner has already deposited Rs.20,000/-, further sum of Rs.15,000/- is required to be deposited with the trial Court within 8 weeks. In view of above, the order under challenge is modified to the above extent. With this observation revision application is disposed of. Rule is made absolute in above terms. Liberty is granted to the respondent plaintiff to move the learned Chamber Judge of the City Civil Court, Ahmedabad for withdrawal of the said amount deposited by the petitioners and if such application is made, the trial Judge is directed to decide the same as early as possible in accordance with law.

(D.K.Trivedi,J.)

pallav